AGENCY COMMENTS

The report confirms DDSN's overall sound fiscal systems and finds DDSN's quality assurance efforts to be well designed and comprehensive. As the second largest user of Medicaid funding in the state, the federal Medicaid agency, CMS, and South Carolina's Medicaid authority, DHHS, routinely conduct numerous audits to review DDSN's programs and financial systems to ensure compliance. They find that DDSN is in compliance with Medicaid requirements and as such, the agency is allowed to continue service provision and receive Medicaid reimbursement. The LAC report states there are no material problems with the agency's payment system. Further the report found that the amount of funding spent on consumers is based upon their actual service needs, including those with the most complex expensive needs, and that the funding is portable with the consumers. The LAC found that unlike North Carolina DDSN has controls to ensure that services are needed and allocates budgets to individual consumers.

DDSN's internal audit division was found to have an appropriate reporting structure that ensures appropriate independence for the internal audit function.

The report describes how several external entities perform different aspects of quality reviews for DDSN and recognizes that numerous entities provide oversight for various aspects of consumer health, safety and welfare.

The report confirms the importance of choice for individuals and families, which is why DDSN has more than doubled the number of qualified providers over the last several years. CMS reviews recognize DDSN is in full compliance with this requirement.

In general, the LAC report found that DDSN operates competently in many respects but the agency could improve in many areas. DDSN does not disagree and the agency will use the recommendations for improvement.

HEALTH, SAFETY, AND WELFARE

DDSN is pleased the report documents that the federal Centers for Medicare and Medicaid Services (CMS) confirms DDSN's protection of consumers' health, safety, and welfare in 2007 and 2008 stating DDSN "substantially meets this assurance" of health, safety and welfare of waiver participants. DDSN's quality assurance and quality improvement efforts are further evidenced by federal Medicaid's (CMS) renewal of DDSN's two Medicaid waivers and approval of a new waiver in January 2007. Moreover, in the 2007 CMS evaluation of the HASCI waiver, CMS wrote, "The state's system to assure health and welfare is adequate and effective, and the state demonstrates ongoing, systematic oversight of health and welfare."

In addition, DDSN conducts regular licensing reviews similar to DHEC's and DSS' processes. DDSN has a tracking system to ensure plans of correction by service providers are submitted to address deficiencies identified during licensing reviews. There is evidence that DDSN received plans of correction for 100% of annual licensing reviews in the LAC sample. DDSN has and does conduct follow-up reviews when warranted. This is similar to DHEC's process. A significant difference is that in addition DDSN's federally approved Quality Improvement Organization (QIO) conducts reviews of every provider every year, with follow-ups as required by policy. In addition to that, the State Fire Marshall inspects every facility every year for health and safety and the licensing standards require an annual electrical, sprinkler system, fire alarm system, and HVAC inspection. With these fully integrated multiple systems, DDSN goes beyond a typical licensing renewal process to assure the health, safety, and welfare of its consumers.

The report found that DDSN licensing standards are comparable to DHEC licensing standards. In South Carolina, DDSN is a separate entity from the contracted providers actually providing the service. DDSN licenses 1065 residential facilities across the state. Only 6 of these homes and 3 apartments are operated directly by DDSN so there is very little potential for conflicts of interest.

In South Carolina many of the licensing functions that other states have their licensing staff perform are carried out by DDSN's independent QIO. In addition, in a USC School of Public Health report national experts state that the oversight of service delivery has begun to move away from the traditional site-by-site review systems and toward organizational improvement monitoring which is exactly DDSN's approach.

The report also recognizes that DDSN has issued sanctions to providers for non-compliance. DDSN has documentation of when and why sanctions are issued but the agency will make improvements in the documentation to address the issues noted.

DDSN has ensured that providers comply with its policy regarding personnel actions related to abuse, neglect, or exploitation. In 100% of the cases, appropriate personnel action was taken. The LAC was originally given an erroneous report but this was corrected and provided to them.

DDSN services are provided by several thousand staff. When this is combined with turnover, errors can and do occur occasionally. For this reason DDSN mandates consumer funds training for all provider staff who handle consumer funds on a continuous basis. This training is provided by staff who have the knowledge of how consumer funds are to be managed. DDSN's Internal Audit Division offers on-site training and statewide training on consumer funds which will be added to the website as it is updated.

The report recognizes that DDSN's guidance on room and board is adequate. The guidance was also reviewed by the South Carolina Department of Health and Human Services (DHHS) as part of their oversight of the Medicaid waivers and also was found to be adequate by that agency. DDSN will formalize its practice as a directive.

BARRIERS TO COMPETITION AND CONSUMER CHOICE

Choice is a means or method by which people can have services in their life as they choose. DDSN has emphasized and required consumer choice for many years because it knows that it is important for consumers and families to have more types of services and more providers. DDSN collaborated with the State Budget and Control Board's Procurement Office in 2002 to develop an ongoing national solicitation process through a Request for Proposals (RFP). Prior to the first RFP for services, DDSN contracted with 45 providers for service (39 boards, 6 private providers). During this first six years of the RFP, 49 additional providers were added for a total of 94, a 100% increase. The latest renewal of the RFP just completed in September has already increased the number of new providers by 7, including 2 new residential providers. The service system continues to expand providers.

Further, when you include services provided by other providers, like early intervention and service coordination, the percentage rises to over 13% from the 3% stated for residential services. This does not include however, the many private providers paid by DDSN through the state's Medicaid billing system at DHHS. Each year DDSN pays the state matching funds to DHHS for approximately $83 million of services provided through their network of private providers. This amounts to approximately 15% of DDSN's real expenditures when both are combined. Taken together, approximately 28% of DDSN's services are provided by an entity other than the DSN boards within their geographic assignment. To further expand choice for respite and companion caregivers, DDSN and DHHS have submitted a new waiver request to the federal Medicaid agency and anticipates their approval in January 2009. Increasing choice is an ongoing process. CMS reviews recognize that DDSN is in full compliance with this requirement.

DDSN follows state and federal laws for service delivery and this includes offering choice of approved and willing providers. There is no federal or state prohibition for agencies providing service coordination to also provide other necessary services to consumers. Medicaid regulations and reimbursements allow the same entity to deliver both. The National Association of State Directors of Developmental Disabilities Services conducted a national study of case management programs in every state and found that 20 states use DDSN's model of allowing consumers' to choose their own service coordination provider who may also provide direct services and all 20, including DDSN, have policies in place to ensure the freedom of choice of service participants. There are no studies that show that separating service coordination from service provision makes a difference in outcomes.

In addition, North Carolina is listed as an example of a state that separates service coordination from service provision, a change that state made several years ago. Previously, North Carolina had a county board system that did both like in South Carolina. The issues identified in this audit as problems North Carolina had with billing, quality, and budget controls were a direct consequence of the way North Carolina separated the service coordination function. Authorization of services exploded as did costs. The LAC report correctly confirms that South Carolina has these controls.

The Disability and Special Needs board (DSN) system established by law is not meant to discourage provider participation but to ensure that if no private providers are available, the local DSN Board is the default service provider. This ensures consumers have access to at least one provider in their county. DDSN is like the Medicaid agency, DHHS, in having limited providers in many counties.

DDSN will continue to hold all contract providers, including boards, accountable financially and programmatically. DSN boards are created by the S. C. Code Section 44-20-375 and as such guarantees consumers at least one service provider in their county. DDSN utilizes various means to assure accountability such as temporarily limiting expansion when quality issues exist until improvements occur and/or informing the local board of directors of problems which result in new

management in some instances. The most significant action includes reducing contracts and arranging for other providers for services.

DDSN works to resolve funding issues when necessary with the boards just like other state agencies do with their county operations to assure their continued existence while still requiring corrective action and implementing consequences. The agency also works with private entities in this regard too. Private providers can choose to operate in or leave a county and can pick which consumers to serve and which services to provide, but the county DSN boards cannot as they serve as the guaranteed provider in that county for every consumer.

The funding system is always linked to the individuals DDSN serves. Service expansion must be planned and coordinated. For residential services this is similar to the Certificate of Need process for nursing homes. DDSN must plan expansion – matching factors such as individual personalities, family preferences, gender, age, disability type, functioning abilities, and health requirements. The mix of persons then drives the type of property needed, its location and proper licensing. Unlike nursing homes this expansion occurs in small residential settings from 1 to 6 beds utilizing 5 different residential options as opposed to 48 beds all having similar supports. Planning must take into account the total service need in each county while covering each of the unique needs of individuals listed above. This process is critical to the family since the average age of the residential consumer is 40 and once placed remains in residential services for decades as opposed to just over 2 years for nursing homes. Expansion of residential services requires a significantly more complex need to plan so in contrast service expansion for in-home supports are given to the individual and not a provider.

USE OF FUNDS

DDSN is pleased that the audit did not find any material problems with the agency's funding system and that it followed federal regulations. This is a similar finding to the November 2005 DHHS audit concerning the waiver funding system that stated "We did not find that the band payment system contravened any Federal Regulations, and do not have any recommendations for dramatically altering this system." However, the agency will adopt this report's recommendations to formalize some of the procedures utilized by DDSN staff and providers and place this information on the website.

The audit does recommend that DDSN develop a systematic plan to update the bands for cost-of-living increases, contingent on availability of funds. However, DDSN can only update payments when the General Assembly funds the additional cost through state appropriations. Currently, the General Assembly funds the pay and fringe cost when a pay increase is funded. This generally funds 80% of the cost increases since labor is the principal cost. DDSN monitors all costs annually through audited cost reports to determine when and if a separate request for cost increases should be submitted to the Governor and the General Assembly. Based on this process DDSN submitted an operating increase budget request for FY 06-07 and has already done so for next fiscal year.

As one of the largest providers of Medicaid services, DDSN works hard to document all Medicaid cost so as to maximize federal reimbursements. The cost reports that DDSN is required to complete documenting all Medicaid costs are submitted annually. DHHS staff review these reports regularly and the DHHS audit division has audited them separately more than once in the last several years. A 2004 Federal CMS Medicaid report found that the cost reports had not been independently audited and recommended an independent audit and any related audit adjustments. This finding to DHHS was answered by the then current DHHS Director, who documented the various audits the state provides. CMS accepted the director's response and renewed the waiver. The 2004 Federal CMS audit did not report any concerns with cost allocations, reimbursement and cost settlement methodologies. The report stated, "The review included documentation of evidence that the State has established sufficient financial oversight to assure that claims are coded and paid in accordance with the reimbursement methodology specified in the approved waiver."

In a 2006 audit, DHHS decided to change the requirements and recommend an independent audit and DDSN agreed. DDSN has already worked with DHHS and the State Auditor's Office to secure permission to have an external audit of the cost reports starting with the 2006 cost reports. These reports are to be audited this fiscal year.

While the audit finds that some new services have not been provided, DDSN has always developed and provided services for which the General Assembly has appropriated funding to the fullest extent possible. DDSN will continue to ensure that it will do so in the future. However, prudent management requires anticipating and planning for changing factors beyond the agency's control. These include plan changes due to the consumers' needs, the source of funding being non-recurring for recurring expenses, the timing of when funds are available or if they will become available, and during slowing economies, reductions in service development plans necessary to avoid taking away a service from current consumers like this year as a result of an 11.2% reduction ($21.5 million) in general funds appropriations. The bed expansion was always planned as a two-year process when each request was made in order to adequately plan with families, purchase the homes, hire and train staff, start-up and then finally operate.

DDSN's community services are documented and controlled by contracts with providers. DDSN has actual contractual amendments for the 449 beds which are part of the appropriation expansion and were completed as of June 30, 2008. New beds have been added monthly and through September 2008 an additional 31 beds were developed. The actual contracted residential beds in the community have changed from 3,508 as of June 30, 2005 to 4,018 as of November 10, 2008, a change in all residential bed contracts of 510 over the period. However, with the current budget reductions there will be no additional development.

To capitalize on Medicaid reimbursement for the PDD program, DDSN with the full participation of DHHS worked quickly to apply for and receive approval from the Federal Centers for Medicare and Medicaid Services (CMS) for a home and community based waiver. The waiver was approved by CMS with an effective start date of January 2007. With the creation of this new PDD program, DDSN had to create providers for this service as there was a shortage of providers to fully meet the demand for this service. Thus, the PDD program was not at its full potential until July 2007, a year after the initial funding was appropriated to the department. Even though it took a year for the department to secure the additional funding from Medicaid, establish processes and standards and create new providers to provide the services, this was at a faster pace than that of the private insurance sector. In June 2007, the General Assembly passed a law that private insurance companies doing business in South Carolina had to provide the pervasive developmental disorder coverage for its policyholders. As yet we are unaware that any individuals are receiving the insurance benefit.

Most of the $1.5 million in grants to private, non-profit organizations identified in the audit was for services, not for general operations. The best feedback a service agency receives is from the consumer, family, or organized advocacy groups representing them. This is a recognized method used by the federal government of creating feedback. DDSN received a federal grant from the Department of Health and Human Services specifically to form a coalition to advocate and plan for future services to the traumatic brain injury population in the state of South Carolina. This grant line-item funded the Brain Injury Association of South Carolina. Without this support many of the groups would not exist.

ACCESS TO INFORMATION, AUDITS, AND OTHER ISSUES

DDSN has recently added all directives and standards on its website. Public comments on these may be offered at any time. The agency is planning to update and improve its website and resources have been identified for this purpose.

The DSN Commission uses a nationally recognized model of governance in conducting agency business. The governance structure does not limit commission members access to public information, but does bring structure to ongoing, multiple requests by a member for the same information when that becomes burdensome to the organization. The review by the LAC's governance expert correctly quotes governance training that members can get questions answered, "unless doing so burdens the organization." The LAC's governance expert is also correct that a single interpersonal problem existed and the problem was resolved. The bottom line is that commission members have the right to request and receive the information they desire.

The LAC report states that DDSN has an appropriate reporting structure for its internal audit division and that the reporting structure should ensure appropriate independence for the internal audit function. Previously DDSN asked the Institute of Internal Auditing to audit its own internal audit division. DDSN is now finalizing the one remaining recommendation. DDSN is in full compliance with the Institute's standards.

The American Institute of CPA's (AICPA), as the licensing entity for CPAs, defines the basic standards to its members for representing attestation engagements. DDSN is in complete agreement with AICPA guidelines on independence of its membership regarding consulting and auditing services. As such, DDSN is unaware of any CPA firm that is in violation of the independence standards. If DDSN or any other party were to become aware of such a violation, then notification to the licensing body will take place immediately for appropriate action by the appropriate regulatory body.

The report does identify a former DDSN temporary employee who simultaneously worked for other entities. This situation was reviewed by the State Ethics Commission. The Commission's Decision and Order states "there is no evidence to indicate that the Respondent was performing the same work under the personal service contracts as he was assigned to perform as a DDSN employee. There was no evidence that the services offered by the Respondent in the personal contracts were services that were also available free of charge from DDSN." The Ethics Commission's Decision and Order further states "There is no doubt in the Commission's mind that there was no intent to violate the statute, nor was there any intent to create a conflict; however, the Commission unanimously agrees that an appearance of impropriety does exist." Therefore, the DDSN State Director and the part time employee both agreed it was in everyone's best interest to end the employment status in September 2006 as was documented in this audit report. The LAC report further states that it found no evidence that DDSN encouraged boards to hire the former employee.

RECOMMENDATIONS

Recommendation 1: DDSN will continue its efforts to ensure that information derived from its quality assurance processes is integrated and used to remediate problems identified. DDSN took the lead in the developmental disabilities field utilizing a federal grant to review its quality assurance and quality improvement initiatives that resulted in the report by the national association mentioned in this audit. The report also stated, "South Carolina (DDSN) appears to be the first state in the nation to have performed a comprehensive assessment of the extent to which its quality assurance system for persons with developmental disabilities addresses the quality management functions and focus areas identified by the Centers for Medicaid and Medicare Services (CMS) Quality Framework."

Recommendation 2: DDSN will continue to follow-up on reviews requiring plans of correction. Some of these will be in person while others can be documented in writing by the provider depending on the deficiencies.

Recommendation 3: DDSN will document follow-up reviews with reports assessing provider progress toward completion of plans of correction.

Recommendation 4: DDSN will revise its licensing directive to include criteria that defines when follow up visits are warranted and the type of documentation that is sufficient to demonstrate implementation of the plan of correction.

Recommendation 5: DDSN has documentation of when and why sanctions are issued but the agency will make improvements in the documentation to address the issues listed.

Recommendation 6: DDSN will review its licensing function and implement an approach that is independent. When you include South Carolina in comparison with the four states listed, it is actually 4 of the 5 states listed that have similar arrangements concerning licensing. The Georgia, Florida, and North Carolina organizations are like South Carolina's as the developmental disabilities divisions are a unit of the same agency that also is responsible for the licensing division. Tennessee is the only one listed that is actually separate. In South Carolina, DDSN is a different entity from the local providers actually providing the service.

Recommendation 7: DDSN's approach to licensing is to select a representative and statistically significant sample of every provider's residential programs every year. Each facility within each provider is visited by the licensing staff every three years which is similar to DHEC's and DSS' every two year process. The significant difference is that in addition DDSN's QIO conducts reviews of every provider every year, with follow-ups as required by policy. In addition to that, the State Fire Marshall inspects every facility every year for health and safety and the licensing standards require an annual electrical, sprinkler system, fire alarm system, and HVAC inspection. With these multiple systems, DDSN assures the health, safety, and welfare of its consumers.

Recommendation 8: DDSN will continue to provide updated lists of its licensed residential facilities to DHEC and SLED on a quarterly basis as required by state statute and MOA respectively.

Recommendation 9: The Federal Fair Housing Act 42 USC § 3601 and the State Fair Housing Act, S.C. Code Ann. §1-21-10 (Supp. 2007) both prohibit discriminatory practices. The Fair Housing Act states that any state law that is discriminatory is invalid. Both acts prohibit discrimination against handicapped individuals regarding housing and are applicable to municipal and county zoning authorities. The acts do not allow practices to apply to handicapped individuals that are not required of others.

Recommendation 10: DDSN will comply with any statue changes by the S.C. General Assembly.

Recommendation 11: DDSN will conform its policies and practices accordingly.

Recommendation 12: DDSN will continue to comply with state law that requires SLED criminal history checks and will review the practicality of obtaining more of these checks through fingerprint-based searches.

Recommendation 13: DDSN will continue to enforce its abuse and neglect directive 534-02-DD by reviewing provider reports and documenting follow up with providers if a required action is not taken.
The final corrected report reflects that in 100% of the cases, appropriate personnel action was taken.

Recommendation 14: DDSN will include in the revised reference checks directive a requirement that the DSN boards and other providers formally record whether they would rehire a separating employee.

Recommendation 15: DDSN will include in the revised reference checks directive a requirement that DSN boards and other providers make all requests for references in writing.

Recommendation 16: DDSN will include a requirement in the revised reference checks directive that DSN boards and other providers will respond in writing to a written request from another system provider with the information stated.

Recommendation 17: Implementation of this recommendation must be determined by the S.C. General Assembly. Legislation was introduced on behalf of the Adult Protection Coordinating Council during the last session. DDSN staff were active participants in the Council's efforts.

Recommendation 18: DDSN mandates consumer funds training for all provider staff who handle consumer funds. This training is provided by staff having the knowledge of how consumer funds are handled in accordance with Directive 200-12-DD. In order to assist providers in the training of consumer funds, Internal Audit will use technologies to include development of a web based video and the statewide interactive training via the use of video conferencing.

Recommendation 19: As identified in this audit, DDSN's guidance on room and board is adequate. The guidance was also reviewed by the South Carolina Department of Health and Human Services as part of their oversight of the Home and Community based waivers and also was found to be adequate by that agency. DDSN will formalize this guidance and incorporate into a department directive.

Recommendation 20: DDSN will review and approve on an annual basis the room and board calculations of all residential service providers. This process will be formalized in the department directive concerning room and board.

Recommendation 21: DDSN will amend its Appeal and Reconsideration Policy and Procedures Directive, 535-11-DD, to include in the list of possible reasons that room and board calculations can be appealed.

Recommendation 22: DDSN will evaluate whether or not the statutory requirements for human rights committee composition could be effective, and if so, amend the directive to be consistent with the statute.

Recommendation 23: To be consistent with DDSN's training requirements for governing board members, DDSN will amend its Human Rights Directive that training to members be held at least every three years or sooner if there is a change in the majority of the committee members since the last training. DDSN will monitor compliance.

Recommendation 24: DDSN will communicate its major training opportunities through its website.

Recommendation 25: DDSN follows state and federal laws for service delivery. There is no federal or state prohibition for agencies providing service coordination to also provide necessary services to consumers. Medicaid regulations and reimbursements allow the same provider to bill for both. The DSN Board system exists to ensure that if no private providers are available, that consumers are ensured at least one service provider is available in their county. DDSN is like the Medicaid agency, DHHS, in having limited providers in many counties. DDSN also encourages consumers to select the service of facilitation (now called Life Planning) should they be interested in having an independent entity conduct their planning meeting. This is especially important in counties where there is no other provider. This service is offered free of charge to consumers. Across the state there are now 31 providers of service coordination that can serve consumers other than their local board. For example, the Autism Society serves over 400 consumers.

In addition, DDSN's QIO has been and will continue to assess for provider compliance regarding free choice of service provider and case manager. DDSN's network of providers has achieved a high level of compliance as evidenced by last year's rate of 98%. Most importantly, there are no studies that show that separating service coordination from service provision makes a difference in outcomes.

Recommendation 26: DDSN will continue to hold all contract providers, including boards, accountable. Examples of private providers being held accountable are a contract reduction to Lutheran Family Services, limiting United Cerebral Palsy expansion temporarily, and financial paybacks from Bright Start and Easter Seals. The DSN boards are created by the S. C. Code Section 44-20-375 and as such guarantee consumers at least one service provider in their county. DDSN utilizes various means to assure accountability such as temporarily limiting Orangeburg's residential expansion until improvements occurred and informing the local boards of directors of problems at Marion/Dillon and Colleton Boards which resulted in new management.

The most significant action included arranging for other providers as a result of reducing Babcock's contracts for residential services by one-half. The $2 million payback mentioned concerns costs approved by the Department of Health

and Human Services as allowable and reimbursable. These costs were the direct result from the downsizing required by DDSN. DDSN worked with DHHS to fund the allowable cost but required transfer of Babcock property valued above this amount to the new providers. DDSN works to resolve funding issues when necessary with the boards just like other state agencies do with their county operations to assure their continuity while implementing corrective action. While private providers can choose to operate in or leave a county and can pick which consumers to serve and which services they want to provide, the county DSN board cannot as it serves as the guaranteed provider in that county for every consumer.

Recommendation 27: As noted in the LAC report the SC Code establishes DSN Boards as the planning and coordinating authority. Their members are publically appointed. Service expansion must be planned and coordinated. Funding is always linked to the individuals DDSN serves. The funding band mentioned later is an example. The Certificate of Need process for nursing homes is a similar planning process. DDSN must plan expansion – matching factors such as individual personalities, family preference, gender, age, disability type, functioning abilities, and health requirements. The mix of persons then drives the type of property needed, its location, and proper licensing. Unlike nursing homes this expansion occurs in small residential settings from 1 to 6 beds utilizing 5 different residential options as opposed to 48 beds all having similar supports in nursing homes. Planning must take into account the total need in each county while covering all the individual variables listed above. Since there were more consumers on the waiting list than funding available, the local boards worked with the families and private providers based on the authorized expansion. This process is critical for the family since the average age of the residential consumer is 40, and once placed, remains in residential services for decades as opposed to just over 2 years for nursing homes. However, to support the new private providers and expand choice, DDSN used this process to allocate 30% of the new beds to these providers. Expansion of residential services requires a significantly more complex need to plan, so in contrast service expansion for in-home supports was given to the individual and not a provider. Therefore, DDSN plans to continue to plan residential expansion taking into account consumer choice and private provider growth while still allocating in-home supports more individually.

Recommendation 28: DDSN cannot exempt the DSN boards from the state's procurement requirements as set forth and audited by the Budget & Control Board. By state law the boards can provide services within their jurisdiction. Once outside this area, the Budget & Control Board requires that they answer the RFP just like all other providers. Twenty-five did just this with the new RFP last month. State procurement staff estimated that it should have taken less than one business day to complete the procurement paperwork.

Recommendation 29: The solicitation in force during the period of the audit expired September 30, 2008. Prior to reissuing the solicitation DDSN rewrote the solicitation to make it clearer and to make it easier for prospective providers to respond to the solicitation. Both DDSN and State Procurement received positive feedback on the revised format. In reviewing the initial responses to the solicitation, DDSN staff noted several areas of the solicitation that could be further clarified and will again amend the solicitation to include these improvements. The initial award for the new solicitation includes all previous private service providers with several of them expanding to provide services statewide. There are 7 new service providers including 2 new residential service providers. 16 DSN Boards expanded service coordination outside of their designated county, 11 DSN Boards expanded early intervention and 2 DSN Boards expanded residential and day services.

Recommendation 30: DDSN will continue to regularly evaluate the level of response and amend the solicitation as necessary to encourage new service providers to respond to the solicitation. As noted in DDSN's response to 29 above, the review of the initial responses to the reissued solicitation indicated that a few areas could be further clarified and DDSN will amend the solicitation to provide additional clarity.

Recommendation 31: DDSN will request a change in qualifying providers for certain services that required an oral interview. This change will not require oral interviews for those professionals who are licensed and or certified for the provider type this includes. Oral interviews will still be utilized so as to maximize the availability of providers since there is a shortage as stated. This will take an amendment to the waiver and approval by DHHS and federal Medicaid. DDSN, like the LAC, is concerned with provider availability. However, CMS requires DDSN and DHHS to assure that providers are qualified. Applicants are protected due to the fact they can exercise due process as they have the right to appeal these decisions to DHHS if there is an issue with the exam.

Recommendation 32: DDSN will ensure that it enforces stated provider requirements for renewal and review.

Recommendation 33: As stated earlier DDSN has issued a new Request for Proposal which is more user-friendly and not unnecessarily restrictive for new providers. The net result was 7 new providers and many others, public and private, expanded their areas of coverage or services. While the U.S. Court of Appeals for the Tenth Circuit agreed with the decision of the Sixth and Seventh Circuits that states are only obligated to pay service providers and not provide them, DDSN has actively recruited and will continue to recruit new providers. A result of this commitment to choice is the new

RFP which generated the new providers in September 2008. The number of qualified providers has more than doubled over the last several years.

Recommendation 34: DDSN will provide training and assistance to new providers.

Recommendation 35: DDSN will accommodate any private residential service provider regarding how often they choose to bill as long as it is not overly burdensome to the agency. There is no maximum or minimum period these providers can bill.

Recommendation 36: Each provider will be treated equally considering the provider type and service to be provided. DDSN is however always open to requests from providers which do not place an unreasonable burden on the agency.

Recommendation 37: DDSN will transform its funding guidelines into a directive and post it on the website. The U.S. Department of Health and Human Services started issuing grants for the "Money Follows the Person" initiative in 2006. With this new effort states can propose new programs aimed at sustaining individuals in their homes or communities. DDSN initiated a similar policy 14 years ago without additional funding.

Recommendation 38: DDSN can only update payments when the General Assembly funds the additional cost through state appropriations. Currently as noted, the General Assembly funds the pay and fringe cost when a pay increase is funded. This generally funds 80% of the cost increases since labor is the principal cost. DDSN monitors all costs annually through audited cost reports to determine when and if a separate request for cost increases should be submitted to the Governor and the General Assembly.

Recommendation 39: DDSN will develop a policy documenting pilot programs including structure, purpose, scope, monitoring, and evaluation.

In 2001 the Babcock Center proposed a new way of funding a type of Community Training Home which is similar to foster care, the CTH I. This proposal would allow the closing of an old 44 bed Pine Lake facility that was going to cost significant funds to update physically. In addition the consumers would have better living conditions and the state would be able to close one of the largest ICF/MR programs operated in the community which has been a federal issue. The annual reimbursement for Pine Lake was $64,331 per consumer. The enhanced rate for the new CTH I program today is only $36,574. This not only resulted in a significant savings in addition to the capital saved, but also created a better CTH I program that has allowed DDSN to maintain the number of CTH I beds. Before this action the number of CTH I beds had been in steady decline.

The RFP for services does include the Enhanced CTH I program and the program was described at various conferences and a Commission meeting. The result is that six entities, four boards and two private providers, now have contracts for this service.

Recommendation 40: Until a pilot program is tested and confirmed to benefit consumers, DDSN will continue to work with providers who want to try something different on a one-to-one basis. However, it must be remembered that Medicaid will only pay for documented needs. Once a pilot proves successful, DDSN will communicate this to the appropriate parties.

Recommendation 41: As noted in this audit, DHHS audit staff reviewed DDSN's residential outlier re-justification process and found no material problems. However, DDSN will formalize its current written procedures concerning outlier funding into a department directive which will be added to the website.

Recommendation 42: DDSN will formalize in the directive the only criteria used in reviewing residential outlier funding requests which is medical necessity as determined by Medicaid which can be varied and broad which is why this funding exists outside of the more specific band funding.

Recommendation 43: DDSN has already worked with DHHS and the State Auditor's Office to secure permission to have an external audit of the four regional cost reports starting with the 2006 cost reports. These reports are to be audited this fiscal year. The 2004 Federal CMS audit did not report any concerns with cost allocations, reimbursement and cost settlement methodologies. That report states that the cost reports had not been audited and recommended an independent audit and any related audit adjustments. This finding to DHHS was answered by Mr. Robert Kerr, DHHS Director, who documented the various audits the state provides. CMS accepted Mr. Kerr's response and renewed the waiver.

In a 2006 audit, DHHS decided to recommend an independent audit and DDSN agreed. The result will be the independent audit this fiscal year.

The 2006 service coordination audit did find specific deficiencies mostly concerning documentation and some allowable cost. These have been corrected.

Recommendation 44: DDSN will have an ongoing periodic independent audit of the four regional cost reports as recommended in the 2006 DHHS audit and as DDSN agreed to carry out.

Recommendation 45: DDSN has always developed and provided services for which the General Assembly has appropriated funding to the fullest extent possible. DDSN will continue to ensure that it will do so in the future. However, prudent management requires anticipating and planning for changing factors beyond the agency's control. These include plan changes due to the consumers' needs, the source of funding being non-recurring for recurring expenses, the timing of when funds are available or if they will become available, and during slowing economies, reductions in service development plans necessary to avoid taking away a service from current consumers this year as a result of an 11.2% reduction ($21.5 million) in general funds appropriations.

The bed expansion was always planned as a two-year process when each request was made in order to adequately plan with families, purchase the homes, hire and train staff, start-up and then finally operate.

DDSN's community services are documented and controlled by contracts with providers. DDSN has actual contractual amendments for the 449 beds which are part of the appropriation expansion which were completed as of June 30, 2008. The dollars are in the contracts approved by the Commission the first of the fiscal year and payments are being made monthly to providers. Using this method, DDSN can track the contract changes for all services expanded over the last several years. Most of the bed expansion included capital expenditures which were also identified and have been expended as well. New beds have been added monthly and through September 2008 an additional 31 beds were developed. The actual contracted residential beds in the community have changed from 3,508 as of June 30, 2005 to 4,018 as of November 10, 2008, a change in all residential bed contracts of 510 over the period. However, with the current budget reductions there will be no additional development.

In purchasing/constructing new homes and providing start-up funds to train staff and up-fit homes, the department primarily used the funds appropriated by the General Assembly for residential development in the initial year as one-time capital funds. In the subsequent year, these funds are converted into ongoing operating funds that are used to provide the 24 hours/day supervision and training of consumers residing in these homes.

The expenditure amount DDSN has had for the 449 actual beds expanded as of June 30, 2008 is $10.2 million per contractual changes and payments. These beds will annualize the expenditure rates once they are on line for a full year at the $25.3 million appropriations minus budget reductions.

The dollars were utilized to purchase housing at $11.2 million and support buildings at the $12.4 million stated. This totals $33.8 million which is $8.5 million more that the total appropriations of $25.3 million. Of the $12.4 million spent on support buildings, 78% were for day programs for the consumers, approximately $9.7 million.

To capitalize on Medicaid reimbursement for the PDD program, DDSN with the full participation of DHHS worked quickly to apply for and receive approval from the Federal Center for Medicare/Medicaid Services (CMS) for a home and community based waiver. The waiver was approved by CMS with an effective start date of January 2007. With the creation of this new PDD program, DDSN had to create providers for this service as there was a shortage of providers to fully meet the demand for this service. Thus, the PDD program was not at its full potential until July 2007, a year after the initial funding was appropriated to the department. Even though it took a year for the department to secure the additional funding from Medicaid, establish processes and standards and create new providers to provide the services, this was at a faster pace than that of the private insurance sector. In June 2007, the General Assembly passed a law that private insurance companies doing business in South Carolina had to provide the pervasive developmental disorder coverage for its policyholders. As yet we are unaware that any individuals are receiving the insurance benefit.

Recommendation 46: DDSN in general agrees with this recommendation. However, the state's budgeting process timelines do not always allow this to happen. For example, the FY 08-09 budget was submitted in August 2007. At the time the residential planned expansion for 2006 and 2007 were to be completed by June 2008; just before the start of the FY 08-09 budget year.

Recommendation 47: DDSN will be more specific in the language used in the budget request documents. The residential bed request for FY 06-07 states that DDSN will "develop" and operate the homes. In the future the request will state that houses and support buildings will be purchased or constructed. However, no more dollars are required to do this since as stated in the report, DDSN utilizes the dollars to purchase the buildings through onetime grants as a onetime expense and then when the buildings are ready to operate the ongoing revenue provides the operating budget for these ongoing expenses. To request separate capital funding for the grants would mean that DDSN would be funded even more dollars. The current method maximizes the dollars since as the report points out all of the houses could not be online in one year. This has been the method utilized by DDSN for years.

Through these efforts, DDSN spent $10,250,000 operating the houses; $11,200,000 purchasing the houses and $12,300,000 on support buildings. The total expenses were $33,750,000; well in excess of the $25,300,000 received. This difference was covered by other capital budgets which DDSN grants to providers every year to maintain quality programs and buildings. Once all beds are operating for a full year after all expansion has occurred, all of the funded dollars will be needed to support the operations of all the beds expanded.

Recommendation 48: DDSN does track the number of individuals living with aging caregivers, as at any time these caregivers may not be able to provide care any longer, and the state has a responsibility to respond. Tracking these numbers aids DDSN in its planning and anticipation of future service needs. Individuals living with aging caregivers may be included on the priority one waiting list, the critical needs waiting list, or no waiting list at all, depending on the request for service made by a family and/or that family's circumstances. It is criteria for the waiting lists that will determine in the future whether a consumer receives a service if funding is available.

Recommendation 49: Most of the $1.5 million in grants was for services, not for general operations. The best feedback a service agency receives is from the consumer, family, or organized advocacy groups representing them. DDSN believes in the formation of these outside entities and supports them by providing a small sum of funding for their existence. This is a recognized method used by the federal government for creating feedback. DDSN received a federal grant from the Department of Health and Human Services specifically to form a coalition to advocate and plan for future services to the traumatic brain injury population in the state of South Carolina. This grant line-item funded the Brain Injury Association of South Carolina. Without this support many of the groups would not exist. With the total number supported by DDSN there are now advocacy groups who provide much feedback and opinion, often varying from that of the department's. Anyone who has worked with the families of individuals with disabilities knows they will make sure their opinions are heard.

Recommendation 50: DDSN will develop a grant application process for non-profits using the same format that is used by DDSN's Head and Spinal Cord Injury Division in awarding annual prevention mini-grants. This process will be used for special (non-federally funded) contract/grant applications solicited by DDSN.

Recommendation 51: DDSN established a formal review process for every special contract and grant for the 2009 awards. This will be incorporated into a directive.

Recommendation 52: DDSN has posted all directives on its website.

Recommendation 53: DDSN will comply with its departmental directive and document the review of the policy. The directive will be modified to change the review from an annual to a three year cycle or more frequently as circumstances warrant.

Recommendation 54: The General Rules and Regulations: A Handbook for Employees will be updated since many direct care employees do not have access to computers and the online system.

Recommendation 55: DDSN does plan to improve its public website.

Recommendation 56: Commission policies do not need to be modified as the review by the LAC's governance expert determined "there is no reason why" the Commission's type of governance structure and policies would limit a Commission member's access to public information. Further, the report correctly quotes governance training that members can get questions answered "unless doing so burdens the organization." The bottom line is that commission members have the right to request and receive the information they desire.

Recommendation 57: A Finance/Audit Charter has been drafted and will be presented at the next meeting of the Finance/Audit Committee.

Recommendation 58: Internal Audit included DDSN service provision operations in the fiscal year 2009 risk assessment. In many central office functions, controls already exist in the form of reviews and/or audits by external parties as noted in the LAC report. All of these reviews are considered when formulating the annual risk plan. However, the central and district offices will be included in future assessments.

Recommendation 59: Internal Audit will continue to ensure that the order of priority in its internal risk assessment plan is followed as closely as reasonably possible taking into account issues that will arise.

Recommendation 60: This audit referenced the completion of one audit of DDSN's central office, while this office technically is part of the finance division; this unit actually utilizes many different information technology systems in the completion of its work. As part of this review, Internal Audit examined how data is input and processed within these systems. Overall, we found these systems were operating as intended. And DDSN arranged for a security audit in relation to HIPAA to be conducted by the Budget and Control Board's CIO. However, Information technology systems will continue to be part of the risk assessment process utilized to determine the most appropriate audit efforts.

Recommendation 61: The American Institute of CPA's (AICPA), as the licensing entity for CPAs, defines basic standards to its members for representing attestation engagements. DDSN is in complete agreement with AICPA guidelines on independence of its membership regarding consulting and auditing services. As such, DDSN is unaware of any CPA firm that is in violation of the independence standards. If DDSN or any other party were to become aware of such a violation, then notification to the licensing body will take place immediately for appropriate action by the appropriate regulatory body.

Recommendation 62: Same response as Recommendation 61.

Recommendation 63: DDSN will provide adequate training and technical assistance to the DSN boards' executive directors.

Regarding the complaint listed in this report the State Ethics Commission Decision and Order states "there is no evidence to indicate that the Respondent was performing the same work under the personal service contracts as he was assigned to perform as a DDSN employee. There was no evidence that the services offered by the Respondent in the personal contracts were services that were also available free of charge from DDSN." The Respondent's contracts with boards were for other services that DDSN expects the boards to be able to carryout themselves or purchase the services separately. These are not services DDSN provides separately to the boards. The payment for services from DDSN already includes these supports.

The Commission's Decision and Order further states "There is no doubt in the Commission's mind that there was no intent to violate the statute, nor was there any intent to create a conflict; however, the Commission unanimously agrees that an appearance of impropriety does exist." Therefore, the State Director and the part time employee both agreed it was in everyone's best interest to end the employment status as has been documented in this audit report that no work occurred after September 2006. The fact that the organizational chart for 2007 was not updated for this change was a mistake. The district directors have had to pick up some of the duties such as orientation due to the termination of employment of the DDSN employee.